



GARY R. HERBERT
Governor

GREGORY S. BELL
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

cc: Wayne
Dunn
Paul
Daron

August 12, 2013

CERTIFIED MAIL

7005 2570 0000 4801 5884

Kevin Butters
C. E. Butters Realty and Const.
760 N. Hwy 89
Harrisville, Utah 84404

SUBJECT: FINDINGS for Stop Work Conference on MC2013-17-3, Unpermitted Mine, S/005/0004, Cache County, Utah

Dear Mr. Butters:

Pursuant to Utah Mining Rules at R647-6-4, a Stop Work Conference was held on August 5, 2013 to discuss the above-referenced Cessation Order. The Stop Work Conference Officer hereby enters the Decision and Order in this matter. Based on the information provided at the conference as well as other information gathered by the Division, it is determined that Cessation Order MC2013-17-3 is upheld and hereby modified to allow for the removal of stockpiles of materials already excavated within the existing footprint of disturbance at the site. The abatement that is already identified in the Citation is also upheld and still applies. A Notice of Intention to Commence Mining Operations must be filed with the Division by August 30, 2013 or the site must be completely reclaimed.

Pursuant to Utah Code Ann. § 40-8-9(5) and Utah Admin. Code R647-7-106, you will have 30 days from the date of this Decision and Order to request an Informal Conference before the Division of Oil, Gas, and Mining. A Conference may be requested by filing a written appeal with Earlene Russell, Secretary, P.O. Box 145801, Salt Lake City, Utah 84114-5801. If you have questions regarding the filing, she can be contacted at earlenerussell@utah.gov or (801) 538-5336. If you have any other questions or concerns please contact me at (801) 538-5325.

Sincerely,

Daron R. Haddock
Stop Work Conference Officer
Division of Oil, Gas and Mining

DRH/vs
Enclosure

H:\Assessment conference\Minerals Assessment\Unpermitted Mine\Butters Decision.docx



**BEFORE THE DIVISION OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH**

**In the Matter of the Stop Work
Conference for the Cessation Order
Citation # MC-2013-17-03, C. E. Butters
Realty and Construction, Un-named
Mine**

DECISION & ORDER

S/005/0004

PROCEDURAL HISTORY

1. On July 29, 2013, the Utah Division of Oil, Gas and Mining ("Division" or "DOGM") issued Cessation Order No. MC-2013-17--03 to C. E. Butters Realty and Construction for conducting mining operations without first filing a Notice of Intention to Commence Mining Operations and posting adequate reclamation surety.
2. On July 31, 2013, Kevin Butters timely requested a stop work conference before the Division to review the fact of the Cessation Order.
3. On August 5, 2013, the Division held a stop work conference pursuant to Utah Admin. Code R647-6-4 to review the CO. The conference took place at the Department of Natural Resources Building, 1594 West North Temple, Salt Lake City, Utah.
4. Daron Haddock, Coal Program Manager of the Division, served as the Conference Officer for the conference.
5. Lynn Kunzler, Inspector for the Division, facilitated the Division's presentation of arguments. Paul Baker and Tom Nicolaysen of the Division were also present.
6. Kevin Butters of C. E. Butters Realty and Construction, represented the company.
7. On August 6, 2013, the Stop Work Conference Officer issued the Decision and Order by telephone to Mr. Kevin Butters and indicated that a formal written decision and order would be forthcoming. The August 6th Order upheld the cessation order and modified it to allow for the removal of stockpiles of materials already excavated within the existing footprint of disturbance at the site. It was also determined that the abatement requirements of the cessation order were still in effect.

FINDINGS OF FACT

8. C E Butters Realty and Construction has been conducting road building activities in the Hideout area at Scare Canyon located in T9N, R3E Sections 20 and 29. A Butters water truck and grizzly were on site.
9. Excavation of rock material in and near lots 16 and 17 of the Hideout Plat were measured using a GPS device, to be approximately 3.9 acres in area. This excavation extended much further than the road building cuts and fills and much beyond the road easements in this area.
10. The excavated materials in this area are not alluvial sand or gravel, but consist of larger bedded angular rock that required ripping by a large dozer to excavate. This was evidence by a 15-20 foot wall of bedded material clearly visible in photos.
11. Excavation pits extend well beyond the road building area as well as below the grade of the road.
12. C E Butters Realty and Construction is being compensated for the work with land in the Hideout subdivision.

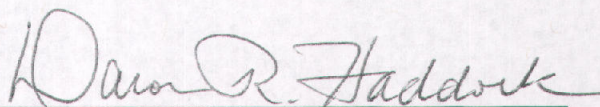
CONCLUSIONS OF LAW

C E Butters Realty and Construction is conducting "Mining Operations" pursuant to R647-1-106 and therefore must obtain a permit to mine and post a reclamation bond as required or reclaim the site.

ORDER

Cessation Order MC-2013-17-3 is upheld and the abatement requirements remain in effect. Cessation Order MC2013-17-3 is hereby modified to allow for the removal of stockpiles of materials already excavated within the existing footprint of disturbance at the site.

SO ORDERED this 6th day of August, 2013.



Daron R. Haddock
Division of Oil, Gas and Mining
Stop Work Conference Officer